

## APPROVAL OF CONSENT AGENDA

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** David Quigley, Planning and Zoning Manager (954-797-1075)

**PREPARED BY:** David Quigley, Planning and Zoning Manager (954-797-1075)

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** District 1 and Townwide

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO EXECUTE AN AGREEMENT WITH BROWARD COUNTY REGARDING AIRPORT NOISE MITIGATION WITHIN THE TRANSIT ORIENTED CORRIDOR.

**REPORT IN BRIEF:** In 2005, the Town of Davie initiated an amendment to the Broward County Land Use Plan to establish a Transit Oriented Corridor within the Town. In order to overcome County concerns regarding the potential for new residential units within areas impacted by airport noise, the Town adopted Resolution 2006-201, providing that the Town would enter into a formal agreement with the County concerning airport noise mitigation. Broward County adopted the TOC amendment on June 23, 2009 with the understanding that a formal airport noise mitigation agreement would be executed prior to the Town submitting its revised comprehensive plan for recertification by the County. The proposed agreement provides for the following:

Within the 60-65 DNL noise contours, as approved by the Federal Aviation Administration, developers of residential units must include noise mitigation measures in construction (to ensure that interior noise does not exceed specified levels) and must provide notice to future purchasers regarding the potential for airport noise. [A map of the current, FAA-approved noise contour lines is attached for reference.]

Within the 65 DNL or greater noise contour, the Town shall not approve any residential or other "non-compatible" land uses. Non-compatible, which is specifically defined within FAA regulations, includes things such as schools and hospitals.

The Town must provide written notice of the approval of any residential development within the TOC to the County's Director of Urban Planning and Redevelopment.

Staff finds that the proposed agreement provides appropriate restrictions of residential and other noise-sensitive uses based on established noise levels. Note in particular that the most restricted area, the 65 DNL or greater, covers a relatively small portion of the TOC and thus will not significantly affect the overall plan for transit-oriented development.

**PREVIOUS ACTIONS:** None.

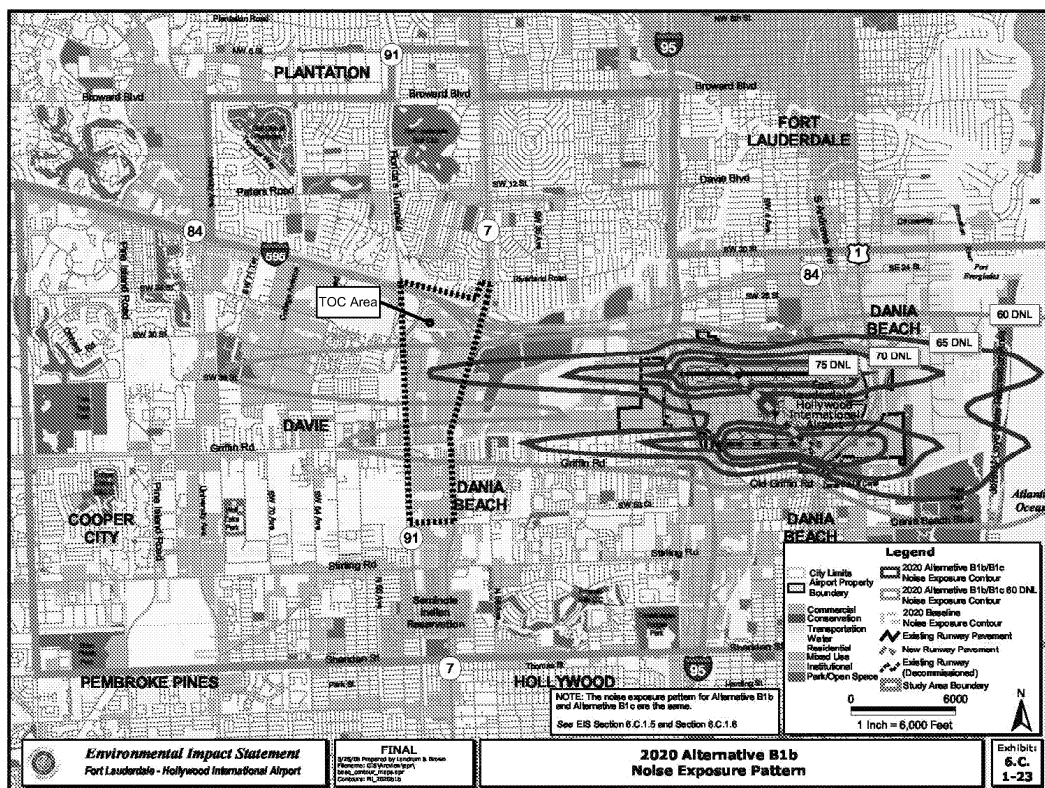
**CONCURRENCES:** None.

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve resolution

**Attachment(s):** Noise Exposure Map, Resolution, Airport noise agreement



RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO  
EXECUTE AN AGREEMENT WITH BROWARD COUNTY  
REGARDING AIRPORT NOISE MITIGATION WITHIN THE  
TRANSIT ORIENTED CORRIDOR.

WHEREAS, the Town of Davie initiated an amendment to the Broward County  
Land Use Plan (PC 06-19) to establish a Transit Oriented Corridor ("TOC") within the  
Town of Davie; and

WHEREAS, in the effort to obtain approval of Amendment PC 06-19, the Town  
of Davie has voluntarily agreed to certain limitations concerning airport noise mitigation  
and to prohibit the location of new residential dwelling units in certain areas impacted by  
airport noise; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN  
OF DAVIE, FLORIDA.

SECTION 1. The Town Council of the Town of Davie hereby authorizes the  
Mayor and Town Administrator to execute the agreement provided in Attachment "A".

SECTION 2: This resolution shall take effect immediately upon its passage and  
adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009

Return recorded document to:

Director, Department of Urban Planning  
& Redevelopment  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

Document Prepared by:

Christine C. Lee, Assistant County Attorney  
Office of Broward County Attorney  
c/o Aviation Department  
100 Aviation Boulevard  
Fort Lauderdale, Florida 33315

**NOTICE: DEVELOPERS, PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PERFORMED.**

#### **NOISE MITIGATION AGREEMENT**

This is an Agreement, made and entered into by and between: **BROWARD COUNTY**, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

**TOWN OF DAVIE**, a municipal corporation of the state of Florida hereinafter referred to as "TOWN."

#### **RECITALS**

WHEREAS, TOWN is in the process of approving a redevelopment plan for the property more particularly described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, TOWN initiated a proposed Land Use Plan Amendment (PC 06-19) ("Amendment PC 06-19") for the Property establishing a Transit Oriented Corridor ("TOC"), to promote economic vitality and community redevelopment within the TOWN, a copy of which is attached hereto as Exhibit "B;" and

WHEREAS, the TOWN is proposing the inclusion of approximately 6,428 residential units within the TOC; and

WHEREAS, COUNTY is the owner and operator of the Fort Lauderdale-Hollywood International Airport ("Airport"); and

WHEREAS, on July 19, 2006, TOWN adopted Resolution R-2006-201, attached hereto as Exhibit "C," acknowledging that a portion of the TOC will be located within the Airport's 60 and greater DNL noise contours by the year 2020; and

WHEREAS, consistent with the October 1, 1998, policy of the Federal Aviation Administration ("FAA") and Broward County Ordinance No 2006-37, COUNTY will not provide remedial noise mitigation for incompatible development in and around the Airport that occurs after October 1, 1998; and

WHEREAS, consistent with Resolution R-2006-201, TOWN agrees to prohibit residential and other non-compatible land uses in the TOC that fall within the Airport's 65 and over DNL noise contours as shown on the most current FAA approved Noise Exposure Map for the Airport, and TOWN shall require new residential units in the TOC that fall within the 60 DNL noise contour and up to but not including the 65 DNL noise contour to be constructed with the noise mitigation measures specified below; and

WHEREAS, TOWN has voluntarily agreed to enter into this Agreement as a condition of approval of Amendment PC 06-19 to enable legal enforcement of the commitments made to the COUNTY herein; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, COUNTY and TOWN agree as follows:

1. RECITALS

The above recitals are true and correct and incorporated herein by reference.

2. NOISE MITIGATION MEASURES

2.01 TOWN agrees that any application for a residential building permit shall be subject to the requirement that the developer provide appropriate noise mitigation measures for such residential development within that portion of the TOC located within the 60 DNL noise contour and up to but not including the 65 DNL noise contour, as shown on the most current FAA approved Noise Exposure Map, in order to achieve outdoor-to-indoor Noise Level Reduction (NLR) of at least twenty-five decibels (25 dB) to thirty decibels (30 dB).

2.02 TOWN shall provide written notice to the COUNTY's Director of Urban Planning & Redevelopment, or designee, upon site plan or plat approval of any residential project authorized pursuant to Amendment PC 06-19. Such notification shall include project location and number and type of units at the time of site plan or plat approval and shall be confirmed by the TOWN at the time of building permit.

2.03 TOWN agrees it will not accept an application for a building permit for any residential unit within that portion of the TOC located within the 60 DNL noise contour and up to but not including the 65 DNL noise contour, as shown on the most current FAA approved Noise Exposure Map, unless TOWN receives documentation from the developer evidencing the inclusion of noise mitigation measures in the construction of the project in accordance with subsection 2.01 above, and a commitment from the developer to provide notice to all purchasers of such residential housing that the property lies within the 60 DNL noise contour and up to but not including the 65 DNL noise contour, as shown on the most current FAA approved Noise Exposure Map.

2.04 TOWN agrees it will not accept an application for a building permit for any residential unit or any other non-compatible land use within that portion of the TOC located in the 65 DNL and above noise contours, as shown on the most current FAA approved Noise Exposure Map. Non-compatible land uses within the 65 and greater DNL noise contours shall be as identified in Table 1, 14 CFR Part 150, Appendix B, as amended from time to time.

2.05 Prior to the issuance of a building permit for the construction or erection of any structures to be located within the TOC, TOWN shall verify that the TOWN and the developer are complying with the provisions of this Section 2.

### 3. DEFAULT BY TOWN

3.01 TOWN, its successor and assigns, agrees that no building permits or certificate of occupancy shall be obtained from the TOWN for any residential development of that portion of the TOC located within the 60 DNL noise contour and up to but not including the 65 DNL noise contour, as shown on the most current FAA approved Noise Exposure Map, until such time as the developer provides the noise mitigation measures required herein. Failure to ensure that such residential development includes such noise mitigation measures shall constitute a default of this Agreement.

3.02 TOWN, its successor and assigns, agrees that no building permits or certificate of occupancy shall be obtained from the TOWN for residential development or any other non-compatible land uses of that portion of the TOC located within the 65 and greater DNL noise contours, as shown on the most current FAA approved Noise Exposure Map. Failure to comply with these requirements shall constitute a default of this Agreement.

3.03 Nothing herein shall waive or affect the right of COUNTY to otherwise require the TOWN to comply with the conditions of Amendment PC 06-19 or this Agreement by any remedy provided by law or equity. In the event of a breach of this Agreement, or if enforcement of this Agreement is required, the parties agree that COUNTY shall not be obligated to pay for any noise mitigation measures for any

residential projects or any other projects whatsoever within the TOC that are not in compliance with this Agreement.

3.04 In the event TOWN fails to ensure that Developer incorporates noise mitigation measures into residential developments within that portion of the TOC located within the 60 DNL noise contour and up to but not including the 65 DNL noise contour, as shown on the most current FAA approved Noise Exposure Map, as required by Section 2, above, TOWN agrees to accept responsibility for such noise mitigation measures.

3.05 A failure by TOWN to perform hereunder shall be considered a material breach of this Agreement and COUNTY shall be entitled to seek such legal remedies against TOWN as may be available to COUNTY.

#### 4. GOVERNMENTAL IMMUNITY

4.01 TOWN is a municipality as defined in Chapter 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by TOWN to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by TOWN to be sued by third parties in any matter arising out of this Agreement or any other contract.

4.02 COUNTY is a political subdivision of the state as defined in Chapter 768.28, Florida Statutes, and agrees to be responsible for acts and omissions of its agents or employees when required by law. Nothing herein is intended to serve as a waiver of sovereign immunity by COUNTY to the extent sovereign immunity may be applicable. Nothing herein shall be construed as consent by COUNTY to be sued by third parties in any matter arising out of this Agreement or any other contract.

#### 5. CONTRACT INDEMNIFICATION BY TOWN

As consideration for the COUNTY entering into this Agreement with TOWN and adopting the Land Use Plan Amendment identified in this Agreement, TOWN shall, to the full extent permitted by law, at all times indemnify, hold harmless and, at the County Attorney's option, defend or pay for an attorney selected by the County Attorney to defend COUNTY, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, related in any respect to the subject matter of this Agreement, the TOC or any development within the TOC, including without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property, or resulting from any inverse condemnation action or other takings related claims. In the event any lawsuit or other proceeding is brought against COUNTY by reason of any such claim, cause of action

or demand, TOWN shall, upon written notice from COUNTY, resist and defend such lawsuit or proceeding by counsel satisfactory to COUNTY or, at COUNTY's option, pay for an attorney selected by County Attorney to defend COUNTY. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement.

6. INSURANCE

TOWN is an entity subject to Section 768.28, Florida Statutes, and TOWN shall furnish COUNTY with written verification of liability protection in accordance with state law prior to final execution of this Agreement.

7. NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR BROWARD COUNTY:

County Administrator  
Government Center, Suite 409  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

WITH COPY TO:

Director  
Urban Planning & Redevelopment  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

FOR TOWN:

Town Administrator  
Town of Davie  
6591 Orange Drive  
Davie, Florida 33314



8. SATISFACTION OF OBLIGATIONS

When all of the obligations set forth in Section 2, above are fully performed, COUNTY, at the request of TOWN, or its successor, and at TOWN's expense, shall cause to be recorded in the Official Records of Broward County, Florida, a statement evidencing such performance.

9. THIRD PARTY BENEFICIARIES

Neither TOWN nor COUNTY intends to directly or substantially benefit a third party by this Agreement. The parties expressly acknowledge that it is not their intent to create any rights in or obligations to any third person or entity by this Agreement; therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

10. WAIVER OF BREACH

COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless it is in writing, signed by COUNTY, and such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver, shall not be deemed a waiver of any subsequent breach, and shall not be construed to be a modification of any of the terms of this Agreement.

11. SEVERANCE

In the event that a provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remaining provisions shall continue to be effective.

12. JOINT PREPARATION AND INTERPRETATION

The parties acknowledge that they have sought and received whatever competent advice and counsel necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

13. CONSTRUCTION OF AGREEMENT; COOPERATION

The parties agree that they will cooperate, act in good faith, and make best efforts to accomplish any and all of the terms, conditions, and provisions of this Agreement, and shall take all appropriate and necessary actions and execute such additional documents as are necessary to effectuate this Agreement.

14. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 21 of this Agreement shall prevail and be given effect.

15. JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. By entering into this Agreement, TOWN and COUNTY hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement.

16. AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by COUNTY and TOWN, or others delegated authority to or otherwise authorized to execute same on their behalf.

17. PRIOR AGREEMENTS

This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

18. REMEDIES

In the event of breach or default of any term, condition, covenant, or obligation of this Agreement by either party, the other party may exercise any right available to it at law or equity, including without limitation, actions for specific performance and injunctive relief, and all such remedies shall be cumulative.

19. INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits "A," "B," and "C" are incorporated into and made a part of this Agreement.

20. RECORDING OF AGREEMENT

The TOWN agrees to record this Agreement in the Official Records of Broward County, Florida, at its expense.

21. MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its Board of County Commissioners, signing by and through its Mayor or Vice Mayor, authorized to execute same on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and TOWN, signing by and through its Town Manager, duly authorized to execute same on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its  
Board of County Commissioners

\_\_\_\_\_  
County Administrator and Ex-Officio  
Clerk of the Board of County  
Commissioners of Broward County,  
Florida

By \_\_\_\_\_  
Mayor  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOISE MITIGATION AGREEMENT BETWEEN BROWARD COUNTY  
AND TOWN OF DAVIE

Approved as to form  
Jeffrey J. Newton, County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, FL 33301  
Telephone: 954-357-7600  
Telecopier: 954-357-7641

By \_\_\_\_\_  
Christine C. Lee  
Senior Assistant County Attorney

TOWN

ATTEST:

TOWN OF DAVIE

\_\_\_\_\_  
Town Clerk

By \_\_\_\_\_  
\_\_\_\_\_, Town Administrator

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Approved as to Form:

By \_\_\_\_\_

\_\_\_\_\_  
Town Attorney

8/25/2009  
#06-401.39  
#09-071.31

ACKNOWLEDGEMENT FOR TOWN

STATE OF FLORIDA     )  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, as Town Administrator of the Town of Davie, a Florida municipal corporation, on behalf of the municipal corporation, who is personally known to me.

My Commission Expires:

\_\_\_\_\_  
(Signature of Notary taking acknowledgement)  
NOTARY PUBLIC, STATE OF FLORIDA

Commission Number:

\_\_\_\_\_  
(Name of Acknowledger typed/printed/stamped)

STATE OF FLORIDA     )  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as Town Clerk of the Town of Davie, a Florida municipal corporation, on behalf of the municipal corporation, who is personally known to me.

My Commission Expires:

\_\_\_\_\_  
(Signature of Notary taking acknowledgement)  
NOTARY PUBLIC, STATE OF FLORIDA

Commission Number:

\_\_\_\_\_  
(Name of Acknowledger typed, printed or stamped)

ACKNOWLEDGEMENT FOR COUNTY

STATE OF FLORIDA     )  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as Mayor/Vice Mayor of the Broward County Board of County Commissioners, a political subdivision of the State of Florida, on behalf of Broward County, who is personally known to me.

My Commission Expires:

\_\_\_\_\_  
(Signature of Notary taking acknowledgement)  
NOTARY PUBLIC, STATE OF FLORIDA

Commission Number:

\_\_\_\_\_  
(Name of Acknowledger typed, printed or stamped)



## EXHIBIT "A"

### Town of Davie Areawide DRI Legal Description

*Point of Beginning, being at a point on the Northerly extension of the East right-of-way line of the Sunshine State Parkway that intersects with the North right-of-way line of State Road No. 84, also being the South right-of-way line of the North New River Canal (C-11 North); thence Southeasterly along said South right-of-way line to the Northwest corner of the East one-half (E 1/2) of Tract 1, Tier 7 in Section 24, Township 50 South, Range 41 East of said Plat of "JOHN W. NEWMAN'S SURVEY"; thence Northeasterly along an extension of the Westerly line of said East one-half (E 1/2) of said Tract 1 to the South bank of said North New River Canal; thence Southeasterly along said bank to the Westerly right-of-way line of State Road No. 7; thence Northeasterly along said right-of-way line to the centerline of said North New River Canal; thence Northwesterly along said centerline to the Southwesterly extension of the West right-of-way line of Southwest 41st Avenue; thence Northeasterly along said right-of-way line and its extension to the North line of Section 24, Township 50 South, Range 41 East; thence Easterly to a point on the Easterly right-of-way line of Southwest 41st Avenue being 298.34 feet Northerly from the Southwest corner of Tract 2, Tier 4 of said Plat of "JOHN W. NEWMAN'S SURVEY"; thence Southeasterly to a point on the Westerly right-of-way line of State Road No. 7, being 300.00 feet, (as measured along said Westerly right-of-way line) from the Southerly line of said Tract 2; thence Northerly along said Westerly right-of-way line to its intersection with the Westerly prolongation of the North right-of-way line of Riverland Road; thence Easterly along said prolongation to the Easterly right-of-way line of State Road No. 7; thence Southerly along said East right-of-way line to an intersection with the centerline of said North New River Canal; thence Southwesterly along said Easterly right-of-way line to an intersection with the North line of Section 25, Township 50 South, Range 41 East; thence Westerly along said North line to an intersection with the Northerly prolongation of the East line of the West three-quarters (W 3/4) of Tract 3 of said Section 25; thence Southerly along said prolongation and said East line to the Southeast corner of said West three-quarters (W 3/4) of the North one-half (N 1/2) of the North one-half (N 1/2) of said Tract 3; thence Westerly along the South line of the West three-quarters (W 3/4) of the North one-half (N 1/2) of the North one-half (N 1/2) of said Tract 3 to the Easterly right-of-way line of State Road No. 7; thence Southwesterly along said Easterly right-of-way line to a point radially Southeast from the intersection of the West line of Tract 20 in said Section 25 of said Plat of "JOHN W. NEWMAN'S SURVEY" with the Westerly right-of-way line of State Road No. 7; thence radially Northwest from said point to the Westerly right-of-way line of State Road No. 7; thence Southerly along said Westerly right-of-way line to an intersection with the centerline of said South New River Canal; thence Easterly along said centerline to an intersection with the East right-of-way line of State Road No. 7; thence Southerly along said right-of-way line to an intersection with the easterly prolongation of the North line of Tracts 11 and 12 in Section 36, Township 50 South, Range 41 East*

*of "JOHN W. NEWMAN'S SURVEY"; thence Westerly along said line to an intersection with the East right-of-way line of the Sunshine State Parkway; thence Northerly along the East right-of-way line of the Sunshine State Parkway to the Point of Beginning.*



EXHIBIT "B"

ORDINANCE NO. 2009-48

AN ORDINANCE OF BROWARD COUNTY, FLORIDA, ADOPTING AN AMENDMENT AS PART OF THE FIRST ANNUAL 2009 AMENDMENTS TO THE BROWARD COUNTY COMPREHENSIVE PLAN; AMENDING THE 1989 BROWARD COUNTY LAND USE PLAN MAP LOCATED IN THE TOWN OF DAVIE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

WHEREAS, Broward County adopted the 1989 Broward County Comprehensive Plan on March 1, 1989; and

WHEREAS, the Department of Community Affairs has found the Broward County Comprehensive Plan in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Broward County now wishes to propose amendments to the Plan; and

WHEREAS, the Planning Council as the local planning agency for the Broward County Land Use Plan has held its hearings on June 22, 2006, and November 30, 2006, with due public notice; and

WHEREAS, the Board of County Commissioners held its transmittal public hearing on August 22, 2006, having complied with the notice requirements specified in Subsection 163.3184(15), Florida Statutes; and

WHEREAS, the Board of County Commissioners held an adoption public hearing on June 23, 2009, at 2:00 p.m. [also complying with the notice requirements specified in Subsection 163.3184(15), Florida Statutes] at which public comment was accepted, and the objections, recommendations, and comments of the Department of Community Affairs were considered; and

1       WHEREAS, the Board of County Commissioners after due consideration of all  
2 matters hereby finds that the following amendment to the 1989 Broward County  
3 Comprehensive Plan is consistent with the State Plan, Regional Plan, and the Broward  
4 County Comprehensive Plan; complies with the requirements of the Local Government  
5 Comprehensive Planning and Land Development Regulation Act; and is in the best  
6 interests of the health, safety, and welfare of the residents of Broward County; and  
7       WHEREAS, the proposed amendment constitutes an amendment as part of  
8 Broward County's permitted first annual amendments to the Plan for 2009.  
9       BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
10 BROWARD COUNTY, FLORIDA:  
11       Section 1.   The 1989 Broward County Land Use Plan is hereby amended by  
12 Amendment PC 06-19, which is an amendment to the 1989 Broward County Land Use  
13 Plan Map located in the Town of Davie, as set forth in Exhibit A, attached hereto and  
14 incorporated herein.  
15       Section 2.   SEVERABILITY.  
16       If any portion of this Ordinance is determined by any Court to be invalid, the  
17 invalid portion shall be stricken, and such striking shall not affect the validity of the  
18 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion  
19 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),  
20 or circumstance(s), such determination shall not affect the applicability hereof to any  
21 other individual, group, entity, property, or circumstance.  
22       Section 3.   EFFECTIVE DATE.  
23       1.   The effective date of the plan amendment set forth in this Ordinance shall  
24 be the latter of:

1 (a) The date a final order is issued by the Department of Community Affairs  
2 finding the amendment to be in compliance in accordance with Section 163.3184,  
3 Florida Statutes.

4 (b) The date a final order is issued by the Administration Commission finding  
5 the amendment to be in compliance in accordance with Section 163.3184, Florida  
6 Statutes. The Department's notice of intent to find a plan amendment in compliance  
7 shall be deemed to be a final order if no timely petition is filed challenging the  
8 amendment.

9 (c) If a Declaration of Restrictive Covenants is applicable, as per Exhibit B,  
10 the date the Declaration of Restrictive Covenants is recorded in the Public Records of  
11 Broward County.

12 2. This Ordinance shall become effective as provided by law..

13 ENACTED June 23, 2009

14 FILED WITH THE DEPARTMENT OF STATE

15 EFFECTIVE

16  
17  
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22  
23 MA/lt  
5/13/09  
#06-401.33  
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# EXHIBIT A

## BROWARD COUNTY LAND USE PLAN FUTURE LAND USE DESIGNATIONS

Amendment PC 06-19

**Current Land Uses:** 614.9 ACRES OF INDUSTRIAL, 182.5 ACRES OF TRANSPORTATION, 47.9 ACRES OF COMMERCIAL, 39.7 ACRES OF LOW-MEDIUM (10) RESIDENTIAL, 13.6 ACRES OF COMMUNITY FACILITIES, AND 5.1 ACRES OF UTILITIES

**Proposed Land Use:** TRANSIT ORIENTED CORRIDOR

**Acreage:** Approximately 903.7 acres

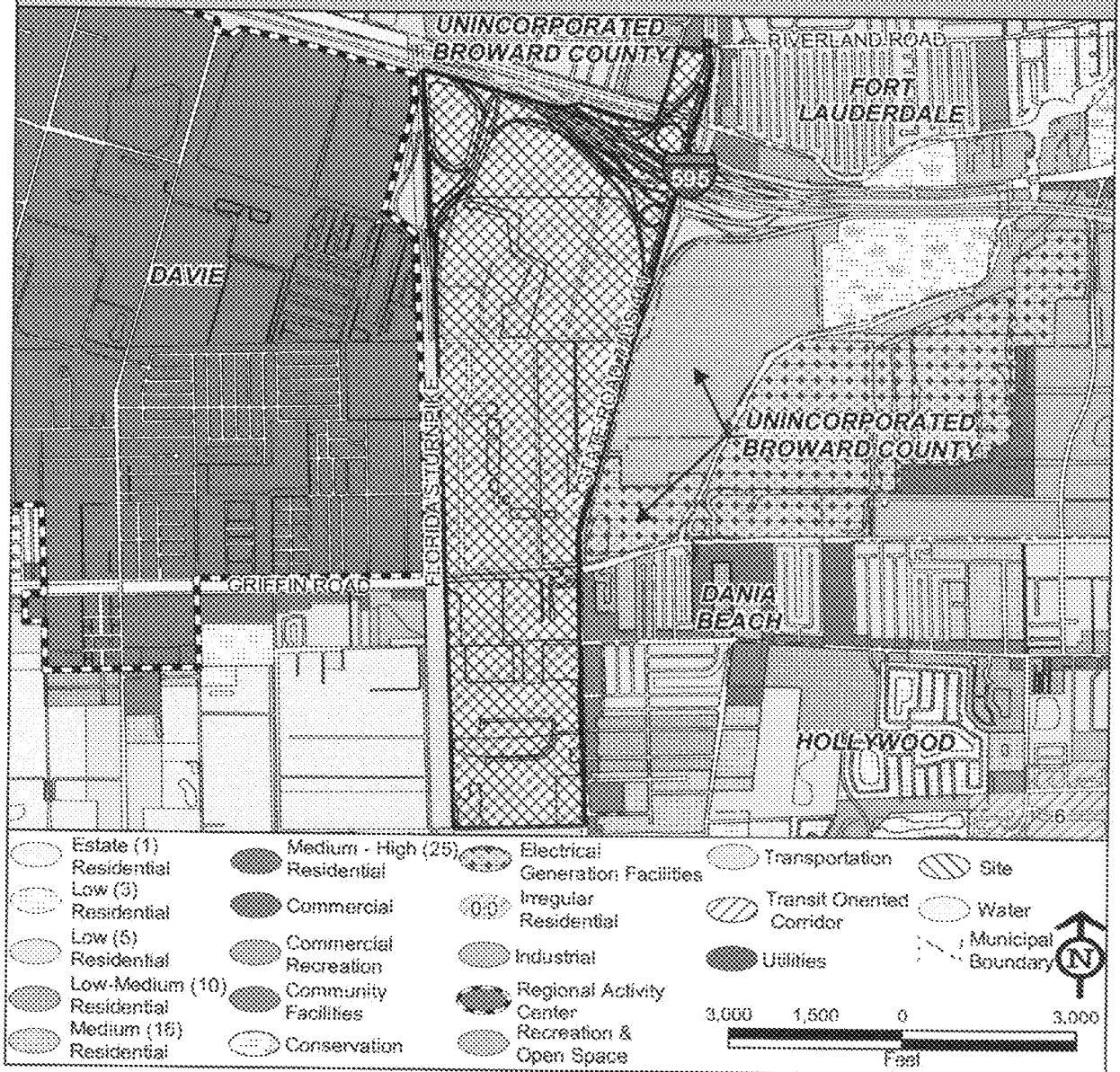


EXHIBIT "C"

RESOLUTION R-2006-201

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACKNOWLEDGING THAT A PORTION OF THE SR7/441 TRANSIT ORIENTED CORRIDOR IS LOCATED WITHIN THE 60 DNL NOISE CONTOUR LINE OF THE 2020 AIRPORT FLIGHT PATH; ACKNOWLEDGING THAT THE TOWN OF DAVIE WILL ENSURE APPROPRIATE NOISE MITIGATION MEASURES WILL BE REQUIRED FOR ANY NEW RESIDENTIAL OR OTHER INCOMPATIBLE USE BY THE DEVELOPER/BUILDER; AND ACKNOWLEDGING THAT THE TOWN OF DAVIE WILL NOT REQUEST MONETARY COMPENSATION BY THE BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS FOR IMPACTS ASSOCIATED WITH IMPACTS WITHIN THE 60 OR GREATER DNL NOISE CONTOUR LINES FOR NEW RESIDENTIAL UNITS LOCATED WITHIN THE TOC; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, with R-2005-236 the Town Council approved the SR7/441 Corridor Master Plan as a vision for promoting economic vitality, aesthetic improvement, community redevelopment and safety in this industrial and commercial area of the Town; and

WHEREAS, the proposed Town initiated land use plan amendment will result in a maximum of 6,248 new residential units; and

WHEREAS, approximately 3,100 residential units are proposed within the 60 DNL in 2020 with the proposed airport expansion; and

WHEREAS, the Town of Davie understands the position of the Broward County Board of County Commissioners to ensure that new residential units located within the 60 DNL noise contour lines do not suffer negative impacts; and

WHEREAS, it is the intent of the Transit Oriented Corridor (TOC) land use plan amendment to require new residential units located within the 60 DNL to be properly mitigated from noise impacts; and

WHEREAS, it is the position of the Town of Davie that such noise abatement shall be provided by the developer; and

WHEREAS, the Town of Davie shall enter into an agreement with the Broward County Board of County Commissioners to release the County from any noise abatement obligations that may result from the proposed TOC land use plan amendment.

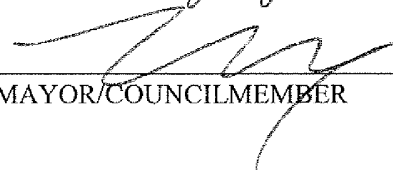
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie shall ensure that residential development proposed within the 60 DNL shall require appropriate noise mitigation as may be defined in the Airport Part 150 study and such mitigation shall be the responsibility of the developer.


SECTION 2. The Town of Davie shall enter into an agreement with the Broward County Board of County Commissioners to release the County from any noise abatement obligations that may result from the proposed TOC land use plan amendment

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS 19<sup>th</sup> DAY OF July, 2006.

  
MAYOR/COUNCILMEMBER


ATTEST:

  
TOWN CLERK

APPROVED THIS 19<sup>th</sup> DAY OF July, 2006.

**CERTIFICATION**

I certify this to be a true and correct copy of the original document on file at Town Hall.

WITNESS my hand and official seal this  
8th day of July, 2008.  
 Asst  
Town Clerk